

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

MCGUIRE WOODS, LLP,)	
)	
Plaintiff,)	Case No.
)	
v.)	MOTION TO COMPEL
)	PRODUCTION OF
)	DOCUMENTS
JAMES JANDRAIN & MIDWEST RENEWABLE ENERGY)	
)	REQUEST FOR ORAL
Defendants.)	ARGUMENT

Defendant McGuireWoods LLP pursuant to Fed.R.Civ.P. 45, requests an order of this Court compelling non-parties Jim Jandrain and Midwest Renewable Energy. ("MRE") to produce documents specifically requested in subpoenas served on them.

In support of the motion, as more fully set forth in the accompanying Brief in Support of Motion to Compel Production of Documents, McGuireWoods states as follows:

1. This motion relates to the underlying case of Rajala v. McGuire Woods, LLP 08-2638-CM-DJW, District of Kansas, wherein Rajala, bankruptcy trustee for Ethanex Energy, is making several claims relating to the actions of former McGuireWoods attorney, Louis Zehil.
2. Plaintiff listed James Jandrain and MRE in its initial disclosures in this case, stating that "This witness was involved in a proposed project with Ethanex for an ethanol plant in Nebraska. He is expected to have knowledge related to this proposed project."
3. McGuireWoods served a subpoena duces tecum on James Jandrain on April 8, 2010, and on MRE on April 8, 20, pursuant to Fed.R.Civ.P. 45.
4. Neither Jandrain nor MRE served a timely objection to the subpoena under Rule 45(c)(2)(B).

5. On April 22, 2010, Jandrain, chief financial officer and board member of MRE, agreed that he would be responding both on behalf of himself and MRE and that the production date for both subpoenas would be pushed back to May 7, 2010.

6. On May 7, 2010, Jandrain produced 111 pages of documents but represented that the majority of the documents that were responsive to both subpoenas were in the possession of Roger Wells, former MRE attorney at McGrath North Mullin & Kratz ("McGrath North"). Jandrain directed counsel for McGuireWoods to contact Mr. Wells.

7. Mr. Wells was contacted by counsel for McGuireWoods and he advised that he would need written direction from Jandrain before he could produce the documents.

8. In a phone call on June 10, 2010, Jandrain agreed to request the documents from McGrath North by phone and in writing, but has since been uncooperative in that effort.

9. Despite several good faith attempts by counsel to resolve this matter without court intervention, Jandrain has been unwilling to obtain and produce the referenced documents.

10. The requested documents are clearly relevant and in the "control" of Jandrain, both personally and as the designated representative of MRE. Jandrain acknowledged his control over the documents and agreed to produce them, Jandrain, acting on behalf of himself and MRE, is required to produce the responsive documents.

11. McGuireWoods requests an evidentiary hearing and oral argument. Subpoenas will be issued to compel the testimony of Mr. Wells and Mr. Jandrain, to clarify the factual record and to assist the Court by fashioning a remedy. The hearing and oral argument should not last more than one hour.

WHEREFORE, McGuireWoods moves for an order compelling James Jandrain and MRE to produce the requested documents listed in McGuireWoods's subpoenas duces tecum.

Respectfully submitted,

POLSINELLI SHUGHART PC

By: /s/ Cathy J. Dean

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CERTIFICATE OF SERVICE

I hereby certify that on July 20, 2010 I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which sent notification of such filing to the following:

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